(1) Figs, which due to insurable causes, grade manufacturing grade will be adjusted by:

(i) Dividing the value per pound of the manufacturing grade production by the highest price election available for the insured type; and

(ii) Multiplying the result (not to exceed 1) by the number of pounds of such manufacturing grade production.

(2) Figs, which due to insurable causes, grade substandard and are delivered to the substandard pool will not be considered production to count, provided all the insured's substandard production is inspected by us and we give written consent to such delivery prior to delivery. If we do not give written consent prior to the delivery to the substandard pool, all production will be counted as undamaged marketable production. Substandard production for which we give written consent to you prior to delivery to the substandard pool, which is not delivered to the substandard pool, and is sold by you, will be considered production to count and adjusted as follows:

(i) Dividing the value per pound received for such substandard production by the highest price election available for the insured type; and

(ii) Multiplying the result (not to exceed 1) by the number of pounds of such substandard production.

(3) Appraised production to be counted will include:

(i) Potential production lost due to uninsured causes and failure to follow recognized good fig farming practices;

(ii) Not less than the production guarantee for the figs on any acreage:

(A) That is abandoned without our consent;

(B) Damaged solely by uninsured causes;

(c) If the figs are destroyed by you without our consent; or

(D) For which you fail to provide records of production that are acceptable to us;

(iii) Unharvested production which would be marketable if harvested; and

(iv) Potential production on insured acreage that you want to abandon and no longer care for if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end if you abandon the crop. If agreement on the appraised amount of production is not reached:

(A) We may require you to continue to care for the crop so that a subsequent appraisal may be made or the crop harvested to determine actual production. You must notify us within three days of the date harvest should have started if the crop is not harvested; or

(B) You may elect to continue to care for the crop. We will determine the amount of production to count for the acreage using the harvested production or our reappraisal if the crop is not harvested.

[59 FR 9615, Mar. 1, 1994]

§ 457.111 Pear crop insurance provisions.

The Pear Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC Policies:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured Policies

(Appropriate title for insurance provider)

Both FCIC and Reinsured Policies:

Pear Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these crop provisions, and the Special Provisions; the Special Provisions will control these crop provisions and the Basic Provisions; and these crop provisions will control the Basic Provisions.

1. Definitions

Days. Calendar days.

Direct marketing. Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper, or buyer. Examples of direct marketing include selling through an on-farm or roadside stand, farmer's market, and permitting the general public to enter the field for the purpose of picking all or a portion of the crop.

FSA. The Farm Service Agency, an agency of the United States Department of Agriculture, or a successor agency.

Good farming practices. The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee, and generally recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest. The picking of mature pears from the trees or the collecting of marketable pears from the ground.

Interplanted. Acreage on which two or more crops are planted in any form of alternating or mixed pattern.

Irrigated practice. A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Marketable. Pear production acceptable for processing or other human consumption even if failing to meet any U.S. or applicable state grading standard.

Non-contiguous. Any two or more tracts of land whose boundaries do not touch at any point, except that land separated only by a public or private right-of-way, waterway, or an irrigation canal will be considered as contiguous.

Production guarantee (per acre). The quantity of pears (in tons) determined by multiplying the approved APH yield per acre by the coverage level percentage you elect, and multiplying the result by any applicable adjustment factor provided in section 6(f) of the Basic Provisions (§ 457.8).

Ton. Two thousand (2,000) pounds avoirdupois.

Varietal group. Types of pears with similar characteristics that are grouped for insurance purposes as specified in the Special Provisions.

Written agreement. A written document that alters designated terms of this policy in accordance with section 12.

2. Unit Division

(a) Unless limited by the Special Provisions, a unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), a basic unit, may be divided into optional units if, for each optional unit you meet all the conditions of this section or if a written agreement to such division exists.

(b) Basic units may not be divided into optional units on any basis including, but not limited to, production practice, type, and variety, other than as described in this section.

(c) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the premium paid for the purpose of electing optional units will be refunded to you for the units combined.

(d) All optional units established for a crop year must be identified on the acreage report for that crop year.

(e) The following requirements must be met for each optional unit:

(1) You must have records, which can be independently verified, of acreage and production for each optional unit for at least the last crop year used to determine your production guarantee; and

(2) You must have records of marketed production or measurement of stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until loss adjustment is completed by us.

(3) Each optional unit must meet one or more of the following criteria as applicable:

(i) *Optional Units by Section, Section Equivalent, or FSA Farm Serial Number.* Optional units may be established if each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands, as the equivalent of sections for unit purposes. In areas that have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number; or

(ii) *Optional Units on Acreage Located on Non-Contiguous Land.* In lieu of establishing optional units by section, section equivalent or FSA Farm Serial Number, optional units may be established if each optional unit is located on non-contiguous land.

(iii) *Optional Units on Acreage by Varietal Group.* In addition to, or instead of, establishing optional units by section, section equivalent, FSA Farm Serial Number, or on non-contiguous land, optional units may be established by varietal group when provided for in the Special Provisions.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8):

(a) You may select only one price election for all the pears in the county insured under this policy unless the Special Provisions provide different price elections by varietal group, in which case you may select one price election for each varietal group designated in the Special Provisions. The price elections you choose for each varietal group must have the same percentage relationship to the maximum price offered by us for each varietal group. For example, if you choose one hundred percent (100%) of the maximum price election for one varietal group, you must also choose one hundred percent (100%) of the maximum price election for all other varietal groups.

(b) You must report, by the production reporting date designated in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), by varietal group:

(1) Any damage, removal of trees, change in practices or any other circumstance that may reduce the expected yield below the

yield upon which the insurance guarantee is based, and the number of affected acres;

(2) The number of bearing trees on insurable and uninsurable acreage;

(3) The age of the trees and the planting pattern; and

(4) For the first year of insurance for acreage interplanted with another perennial crop, and any time the planting pattern of such acreage is changed:

(i) The age of the interplanted crop, and type if applicable;

(ii) The planting pattern; and

(iii) Any other information that we request in order to establish your approved yield. We will reduce the yield used to establish your production guarantee as necessary, based on our estimate of the effect of the following: interplanted perennial crop; removal of trees; damage; change in practices or any other circumstance on the yield potential of the insured crop. If you fail to notify us of any circumstance that may reduce your yields from previous levels, we will reduce your production guarantee as necessary at any time that we become aware of the circumstance.

4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is October 31 preceding the cancellation date for states with a January 31 cancellation date and August 31 preceding the cancellation date for all other states.

5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are:

States	Cancellation and termination dates
California	January 31.
All other states	November 20.

6. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the pears in the county for which a premium rate is provided by the actuarial table:

(a) In which you have a share;

(b) That are of varieties adapted to the area;

(c) That are grown on trees that have produced an average of at least five (5) tons of pears per acre in at least one of the four previous crop years unless the Special Provisions or a written agreement establishes a lower production level; and

(d) That are grown in an orchard that, if inspected, is considered acceptable by us.

7. Insurable Acreage

In lieu of the provisions in section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), that prohibit insurance attaching to a crop planted with another crop, pears interplanted with another perennial crop are insurable unless we inspect the acreage and determine that it does not meet the requirements contained in your policy.

8. Insurance Period

(a) In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) Coverage begins:

(i) In California, on February 1 of each crop year, except that for the year of application, if your application is received after January 22 but prior to February 1, insurance will attach on the 10th day after your properly completed application is received in our local office, unless we inspect the acreage during the 10 day period and determine that it does not meet insurability requirements. You must provide any information that we require for the crop or to determine the condition of the orchard; or

(ii) In all other states, on November 21 of each crop year, except that for the year of application, if your application is received after November 11 but prior to November 21, insurance will attach on the 10th day after your properly completed application is received in our local office, unless we inspect the acreage during the 10 day period and determine that it does not meet insurability requirements. You must provide any information that we require for the crop or to determine the condition of the orchard.

(2) The calendar date for the end of the insurance period for each crop year is:

(i) September 15 for Bartlett (green and red) and Star Crimson (Crimson Red) varietal groups; or

(ii) October 15 for all other varietal groups.

(b) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) If you acquire an insurable share in any insurable acreage after coverage begins but on or before the acreage reporting date for the crop year, and after an inspection we consider the acreage acceptable, insurance will be considered to have attached to such acreage on the calendar date for the beginning of the insurance period.

(2) If you relinquish your insurable interest on any insurable acreage of pears on or before the acreage reporting date of any crop year, insurance will not be considered to have attached to, and no premium will be due, and no indemnity paid, for such acreage for that crop year unless:

(i) A transfer of coverage and right to an indemnity, or a similar form approved by us, is completed by all affected parties;

(ii) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date; and

(iii) The transferee is eligible for crop insurance.

9. Causes of Loss

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss that occur within the insurance period:

(1) Adverse weather conditions;

(2) Fire, unless weeds and other forms of undergrowth have not been controlled or pruning debris has not been removed from the orchard;

(3) Earthquake;

(4) Volcanic eruption; or

(5) Failure of the irrigation water supply, if caused by an insured peril that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we will not insure against damage or loss of production due to:

(1) Disease or insect infestation, unless adverse weather:

(i) Prevents the proper application of control measures or causes properly applied control measures to be ineffective; or

(ii) Causes disease or insect infestation for which no effective control mechanism is available.

(2) Failure of the fruit to color properly; or

(3) Inability to market the pears for any reason other than actual physical damage from an insurable cause specified in this section. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

10. Duties in the Event of Damage or Loss

In addition to the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), the following will apply:

(a) You must notify us within 3 days of the date harvest should have started if the crop will not be harvested.

(b) You must notify us at least 15 days before any production from any unit will be sold by direct marketing. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be sold by direct marketing will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

(c) If you intend to claim an indemnity on any unit, you must notify us at least 15 days prior to the beginning of harvest if you previously gave notice in accordance with section 14 of the Basic Provisions (§ 457.8), so that we may inspect the damaged production. You must not sell or dispose of the damaged crop until after we have given you written consent to do so. If you fail to meet the requirements of this section, and such failure results in our inability to inspect the damaged production, all such production will be considered undamaged and included as production to count.

11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate, acceptable production records:

(1) For any optional unit, we will combine all optional units for which such production records were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage for each varietal group if applicable, by its respective production guarantee;

(2) Multiplying the results of section 11(b)(1) by the respective price election for each varietal group, if applicable;

(3) Totaling the results of section 11(b)(2);

(4) Multiplying the total production to be counted of each varietal group, if applicable, by the respective price election;

(5) Totaling the results of section 11(b)(4);

(6) Subtracting this result of section 11(b)(5) from the result of section 11(b)(3); and

(7) Multiplying the result of section 11(b)(6) by your share.

(c) The total production to count (in tons) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee per acre for acreage:

(A) That is abandoned;

(B) That is sold by direct marketing if you fail to meet the requirements contained in section 10;

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide production records that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production; and

(iv) Potential production on insured acreage that you intend to abandon or no longer care for, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end. If you do not agree with our appraisal, we may defer the claim only if you agree to continue to care for the crop. We will then make another appraisal when you notify us of further damage or that harvest is general in the area unless you harvested the crop, in which case we will use the harvested production. If you do not continue to care for the crop, our appraisal made prior to deferring the claim will be used to determine the production to count; and

(2) For all states except California, all harvested and appraised marketable pear production from the insurable acreage.

(3) For California, all harvested and appraised production that:

(i) Meets the standards for first grade canning as defined by the California Pear Advisory Board or for U.S. Number 1 as defined by the United States Standards for Grades of Summer and Fall Pears, or Pears for Processing, or for U.S. Extra Number 1 or U.S. Number 1 as defined by the United States Standards for Grades of Winter Pears;

(ii) Is accepted by a processor for canning or packing; or

(iii) Is marketable for any purpose. However, if the pears are damaged by an insured cause, the production to count will be reduced by the greater of the following amounts:

(A) The excess over ten percent (10%) of pears that are size 180 or smaller for varieties other than Forelle, Seckel or Winter Nelis; or

(B) The result of dividing the value per ton of such pears by the highest price election for the insured varietal group, subtracting this result from 1.000, and multiplying this difference (if positive) by the number of tons of such pears.

12. Written Agreements

Designated terms of this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 12(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for a written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

13. Pear Quality Adjustment Endorsement

(a) This endorsement applies to any crop year: *Provided*,

(1) The insured pears are located in a State other than California and the actuarial table designates a premium rate for this endorsement;

(2) You have not elected to insure your pears under the Catastrophic Risk Protection (CAT) Endorsement;

(3) You elected it on your application or other form approved by us, and did so on or before the sales closing date for the initial crop year for which you wish it to be effective. By doing so, you agreed to pay the additional premium designated in the actuarial table for this optional coverage; and

(4) You or we did not cancel it in writing on or before the cancellation date. Your election of CAT coverage for any crop year after this endorsement is effective will be considered as notice of cancellation by you.

(b) If the pear production is damaged by hail and if eleven percent (11%) or more of the harvested and appraised production does not grade at least U.S. No. 2 in accordance with applicable United States Standards for Grades of Summer and Fall Pears, United States Standards for Grades of Winter Pears, or United States Standards for Grades of Pears for Processing, as applicable, due solely to hail, the amount of production to count will be reduced as follows:

(i) By two percent (2%) for each full one percent (1%) in excess of ten percent (10%), when eleven percent (11%) through sixty percent (60%) of the pears fail the grade standard; or

(ii) By one hundred percent (100%) when more than sixty percent (60%) of the pears fail the grade standard.

The difference between the reduced production determined in section 13(b) and the total production will be considered as cull production.

(c) Pears that are knocked to the ground by wind or that are frozen and cannot be packed or marketed as fresh pears will be considered one hundred percent (100%) cull production.

(d) Marketable production that grades less than U.S. No. 2 due to causes not covered by this endorsement will not be reduced.

(e) Fifteen percent (15%) of all production considered as cull production in accordance with section 13 (b) and (c) will be production to count.

[61 FR 57580, Nov. 7, 1996]

§ 457.113 Coarse grains crop insurance provisions.

The coarse grains crop insurance provisions for the 1995 and succeeding crop year are as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Coarse Grains Crop Provisions

If a conflict exists among the Common Crop Insurance Policy (§ 457.8), these crop provisions, and the Special Provisions, the Special Provisions will control these crop provisions and the common policy and these crop provisions will control the common policy.

1. Definitions

(a) *Coarse grains*—Corn, grain sorghum, and soybeans.

(b) *Days*—Calendar days.

(c) *Final planting date*—The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full production guarantee.

(d) *Good farming practices*—Good farming practices are the cultural practices generally in use in the county for the insured crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee and are those recognized by the Cooperative Extensive Service as compatible with agronomic and weather conditions in the area.

(e) *Grain sorghum*—The crop defined as sorghum under the United States Grain Standards Act.

(f) *Harvest*—Combining, threshing, or picking the insured crop for grain, or cutting for hay, silage, or fodder.

(g) *Interplanted*—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

(h) *Irrigated practice*—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

(i) *Late planted*—Acreage planted to the insured crop during the late planting period.

(j) *Late planting period*—The period that begins the day after the final planting date for the insured crop and ends twenty-five (25) days after the final planting date.

(k) *Local market price*—The cash grain price per bushel for the U.S. No. 2 yellow corn, U.S. No. 2 grain sorghum, or U.S. No. 1 soybeans, offered by buyers in the area in which you normally market the insured crop. The local market price will reflect the maximum limits of quality deficiencies allowable for the U.S. No. 2 grade for yellow corn and grain sorghum, or U.S. No. 1 grade for soybeans. Factors not associated with grading under the Official United States Standards for Grain, including but not limited to protein and oil, will not be considered.

(l) *Planted acreage*—Land in which seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed which as been properly prepared for the planting method and production practice. Coarse grains must initially be planted in rows to be considered planted. Corn must be planted in rows far enough apart to permit mechanical cultivation. Planting in any other manner will be considered as a failure to follow recognized good farming practices and any loss of production will not be insured unless otherwise provided by the Special Provisions or by written agreement to insure such crop.

(m) *Practical to replant*—In lieu of subsection 1.(ff) of the Common Crop Insurance Policy (§ 457.8) practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors including, but not limited to moisture availability, condition of the field, and time to crop maturity that replanting to the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period unless replanting is generally occurring in the area.

(n) *Prevented planting*—Inability to plant the insured crop with proper equipment by the final planting date designated in the Special Provisions for the insured crop in the county or the end of the late planting period. You must have been unable to plant the insured crop due to an insured cause of loss that has prevented the majority of producers in the surrounding area from planting the same crop.

(o) *Production guarantee*—The number of bushels (tons for corn insured as silage) determined by multiplying the approved yield per acre by the coverage level percentage you elect.

(p) *Replanting*—Performing the cultural practices necessary to replace the seed of the same insured crop, and replacing the seed for the same crop in the insured acreage with the expectation of growing a successful crop.

(q) *Silage*—A product that results from severing the plant from the land and chopping it for the purpose of livestock feed.

(r) *Timely planted*—Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

(s) *Ton*—Two thousand (2000) pounds avoirdupois.